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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,243	08/20/2004	Dr Christian Prehofer	112740-996	7590

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BELL, BOYD & LLOYD, LLC  
P. O. BOX 1135  
CHICAGO, IL 60690-1135

EXAMINER

MARSH, OLIVIA MARIE

ART UNIT PAPER NUMBER

2686

DATE MAILED: 05/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/505,243	PREHOFER, DR CHRISTIAN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Olivia Marsh	2686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>08/20/2004</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 2 is rejected under 35 U.S.C. 102(e) as being anticipated by Whigham (U.S. 6,584,309).

As to **claim 2**, Whigham teaches a method of purchasing a product from an automatic vending machine by using a cellular telephone (page 1, lines 9-10). Whigham also teaches a system 100 comprises vending machine 106, reading on claimed "output device," having a local receiver 110, a cellular telephone 114, reading on claimed "mobile radio device," associated with the consumer 102 and having a local transmitter 116 and a network transmitter/receiver 118, and a computer (server) 120 (column 3, lines 60-64), reading on claimed "center." Whigham also teaches the server 120 performs three functions: first, the server 120 receives the consumer's call requesting a particular product 104 and from the call identifies a request for the product 104 in the vending machine 106, reading on claimed "sending a request from a

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mobile radio device to the center," second, upon identifying the request for the product 104, the server 120 creates a transaction record 124, third, in response to the request for the product 104 in the vending machine 106, the server 120 generates a vend code 126, reading on claimed "transaction number," which authorizes the vending machine 106 to dispense the requested product 104 to the consumer 102. Whigham also teaches after the server 120 has generated the vend code 126 in response to the request received for the product 104, the vend code 126 is communicated to the consumer 102 via the telephone network 122 and the consumer's cellular telephone 114 (column 4, lines 57-61). Whigham also teaches the vend code may be an alpha-numeric vend code 126 communicated orally to the consumer 102 via the consumer's cellular telephone 114 or graphically to the consumer 102 via the consumer's PDA 114 (column 5, lines 26-30), reading on claimed "displaying a respective transaction number for each of the accessible output devices." Whigham also teaches in a system having multiple vending machines, the vend code may be unique for each vending machine within the system (column 5, lines 44-46). Whigham also teaches upon hearing or seeing the alpha-numeric vend code 126, the consumer 102 inputs the alpha-numeric vend code 126 into the vending machine 106 via a keypad (local receiver 110) or other manual input device (column 5, lines 33-36), reading on claimed "effecting an action by entering the respective transaction number at one of the mobile radio device and the respective output device." Whigham also teaches the billing record 130 also includes price information and may include other information about the transaction such as time, date, and location of the vending machine 106 (column 4, lines 44-47), reading on claimed "wherein a position of the mobile radio device and the output devices which can be accessed therefrom are determined."

**Conclusion**

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Eaton *et al* (U.S. 6,888,811)

Koster (U.S. 2004/0203909)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olivia Marsh whose telephone number is 571-272-7912. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on 571-272-7905. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Marsha D Banks-Harold*  
MARSHA D. BANKS-HAROLD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600